

TITLE 2

COUNTY GOVERNMENT; ADMINISTRATION

CHAPTER 235

EMERGENCY PROCEDURES CODE

TABLE OF CONTENTS

Section Title

235.005	Title
235.010	Purpose
235.020	Authority
235.050	Definitions
235.100	Emergency management agency; manager; functions
235.110	Responsibility for emergency services systems
235.200	Declaration of state of emergency; conditions
235.250	Declaration of state of emergency; procedure
235.300	Powers during state of emergency; suspension of agency rules
235.320	Succession of authority
235.340	Regulation, control; application
235.360	Authority over removal of disaster debris or wreckage; unconditional authorization of community; liability for injury or damage
235.380	Acquisition of resources
235.600	Emergency Operations Plan
235.650	Responsibility for emergency management
235.700	Post-evacuation due process
235.800	Non-liability for emergency services; exception
235.900	Penalties

Statutory References and Other Authorities

Legislative History of Chapter 235

235.005 Title

This Chapter, LCC 235.005 to 235.900, shall be known and may be cited as the "Linn County Emergency Procedures Code" or simply as the "Emergency Procedures Code."

[Adopted 98-087 §1 eff 6/24/98; amd 98-526 §6 eff 12/16/98]

235.010 Purpose

(A) Because it is declared to be the policy and intent of the Oregon Legislative Assembly that preparations for emergencies and governmental responsibility for responding to emergencies be placed at the local government level, and that the state shall prepare for emergencies, but shall not assume authority or responsibility for responding to such an event unless the appropriate response is beyond the capability of Linn County in which it occurs, Linn County fails to act, or the emergency involves two or more counties, the general purposes of this Chapter are:

- (1) to respond to that policy and intent;
- (2) to reduce the vulnerability of Linn

County to loss of life, injury to persons or property and human suffering and financial loss resulting from emergencies;

(3) to provide for recovery and relief assistance for the victims of such occurrences.

(B) Other purposes of this Chapter are:

(1) to provide notice of conditions and circumstances that define or describe when an emergency may be declared;

(2) to provide a procedure to minimize injury to persons and property;

(3) to preserve the established civil authority in the event that a state of emergency exists within the unincorporated areas of Linn County or within the incorporated areas of Linn County if assistance is requested by such incorporated jurisdictions, or if those jurisdictions are unable to request assistance; and

(4) to provide a post-evacuation hearing process.

[Adopted 98-087 §2 eff 6/24/98]

235.020 Authority

This Chapter is adopted pursuant to the authority granted to the Board by ORS 203.035

and ORS Chapter 401, especially ORS 401.305 to 401.335.

[Adopted 98-087 §3 eff 6/24/98]

235.050 Definitions

As used in this Chapter, unless the context requires otherwise:

(A) “**Emergency**” includes any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material as defined in ORS 466.605, contamination, utility or transportation emergencies, disease, blight, infestation, crisis influx of people unmanageable by the county, civil disturbance, riot, sabotage and war.

(B) “**Emergency management agency**” means the Emergency Management Organization (an organization created and authorized under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 by Linn County to provide for and assure the conduct and coordination of functions for comprehensive emergency program management. The term includes the Linn County Emergency Management Organization (EMO) as that term is used in the Linn County Emergency Operations Plan.

(C) “**Emergency Operations Plan**” means the Linn County Emergency Operations Plan adopted by the Board, pursuant to ORS 401.305 to 401.335, January 31, 1986, revised October 1, 1997, superceding Linn County Order 85-113 dated February 6, 1985.

(D) “**Emergency program management**” includes all the tasks and activities necessary to provide, support and maintain the ability of the emergency services system to prevent or reduce the impact of emergency or disaster conditions which includes, but is not limited to, coordinating development of plans, procedures, policies, fiscal management, coordination with non-governmental agencies and organizations, providing for a coordinated communications and alert and notification network and a public information system, person-

nel training and development and implementation of exercises to routinely test the emergency services system.

(E) “**Emergency program manager**” means the person appointed by the Board who administers the emergency management agency of Linn County. The term includes the Emergency Services Director, or Emergency Manager, as those terms are used in the Emergency Operations Plan.

(F) “**Emergency service agency**” means an organization within a local government which performs essential services for the public’s benefit prior to, during or following an emergency. This includes, but is not limited to, organizational units within local governments, such as law enforcement, fire control, health, medical and sanitation services, public works and engineering, public information and communications.

(G) “**Emergency Services Director**” means the emergency program manager.

(H) “**Emergency service worker**” means an individual who, under the direction of an emergency service agency or emergency management agency, performs emergency services and:

(1) Is a registered volunteer or independently volunteers to serve without compensation and is accepted by the office or the emergency management agency of a county or city; or

(2) Is a member of the Oregon State Defense Force acting in support of the emergency services system.

(I) “**Emergency services**” includes those activities provided by state and local government agencies with emergency operational responsibilities to prepare for and carry out any activity to prevent, minimize, respond to or recover from an emergency. These activities include, without limitation, coordination, preparedness planning, training, interagency liaison, fire fighting, oil or hazardous material spill or release cleanup as defined in ORS 466.605, law enforcement, medical, health and sanitation services, engineering and public works, search and rescue activities, warning and public information, damage assessment, administration and fiscal management, and those measures defined as “civil defense” in

section 3 of the Act of January 12, 1951, P. L. 81-920 (50 U.S.C. 2252).

(J) “**Emergency services system**” means that system composed of all agencies and organizations involved in the coordinated delivery of emergency services.

(K) “**Injury**” means any personal injury sustained by an emergency service worker by accident, disease or infection arising out of and in the course of emergency services or death resulting proximately from the performance of emergency services.

(L) “**Linn County**” means any area of Linn County serviced by the Linn County emergency management program.

(M) “**Major disaster**” means any event defined as a “major disaster” by the Act of May 22, 1974, P. L. 93-288.

(N) “**Search and rescue**” means the acts of searching for, rescuing or recovering, by means of ground or marine activity, any person who is lost, injured or killed while out of doors. However, “search and rescue” does not include air activity in conflict with the activities carried out by the Department of Transportation.

(O) “**Sheriff**” means the chief law enforcement officer of Linn County.

[Adopted 98-087 §4 eff 6/24/98]

235.100 Emergency management agency; manager; functions

(A) There is hereby established the Linn County emergency management agency. The emergency management agency shall be directly responsible to the Board.

(B) The Board shall appoint an emergency program manager who shall have responsibility for the organization, administration and operation of such agency, subject to the direction and control of the Board.

(C) Pursuant to subsection (B) of this section the Board, by an order entered into the Commissioners’ Journal, has appointed the person holding the office of Sheriff of Linn County as the emergency program manager who shall supervise and control the Linn County emergency management

agency and shall be responsible to develop and maintain the emergency program management plan.

(D) The local governing bodies of the County and cities that have both city and county emergency management programs shall jointly establish policies which provide direction and identify and define the purpose and roles of the individual emergency management programs, specify the responsibilities of the emergency program managers and staff and establish lines of communication, succession and authority of elected officials for an effective and efficient response to emergency conditions.

(E) The emergency management agency shall perform emergency program management functions within the territorial limits of the county and may perform such functions outside the territorial limits as required under any mutual aid or cooperative assistance agreement or as authorized by the county or city. Such emergency management functions shall include, as a minimum,

(1) coordination of the planning activities necessary to prepare and maintain a current emergency operations plan,

(2) management and maintenance of emergency operating facilities from which elected and appointed officials can direct emergency and disaster response activities, and

(3) establishment of an incident command structure for management of a coordinated response by all local emergency service agencies.

[Adopted 98-087 §5 eff 6/24/98]

235.110 Responsibility for emergency services systems

(A) The Governor is responsible for the emergency services system within the State of Oregon.

(B) The Board is responsible for the emergency services system within Linn County.

(C) In carrying out its responsibilities for emergency services systems, the Board may delegate any administrative or operative authority vested in them by ORS 401.015 to 401.105,

401.260 to 401.325 and 401.355 to 401.580 and provide for the sub-delegation of that authority.

[Adopted 98-087 §6 eff 6/24/98]

235.200 Declaration of state of emergency; conditions

(A) The Board shall assess whether an emergency exists.

(B) The Board may declare an emergency pursuant to this section and LCC 235.250.

(C) An emergency may be declared when:

(1) any of the conditions or factors described in LCC 235.050 (A) exists.

(2) when conditions not described herein are determined by the Board to be a serious threat to the peace, health, welfare, or safety of a significant number of the citizens of Linn County and, but for the declaration of an emergency, would leave the citizens without the aid or services authorized by this Chapter.

(D) The declaration may be made by the persons and in the order described in LCC 235.320.

[Adopted 98-087 §7 eff 6/24/98]

235.250 Declaration of state of emergency; procedure

(A) Declaration prior to or without invoking state or federal aid.

(1) When, in the judgement of the Board, a state of emergency exists, it shall declare such emergency in accordance with this section and LCC 235.200.

(2) The declaration shall be in writing and publicize the existence of same.

(3) If circumstances prohibit the timely action of the Board, the Chair of the Board may declare a state of emergency, provided that the approval of a majority of the Board is sought and obtained at the first available opportunity.

(4) The state of emergency declared pursuant to this section shall specify the conditions or factors which warrant the exercise of emergency controls, as well as the nature of aid and assistance the County requests from the State and Federal government if such assistance is requested.

(5) The Chair of the Board shall terminate the state of emergency when the emergency no longer exists or the threat of an emergency has passed.

(B) Requirements to invoke state or federal aid.

(1) The Governor may declare a state of emergency by proclamation at the request of the Board or after determining that an emergency has occurred or is imminent.

(2) All requests by the Board that the Governor declare an emergency shall be sent to the Office of Emergency Management. Requests shall be in writing and include the following:

(a) A certification signed by the Board that all local resources have been expended; and

(b) A preliminary assessment of property damage or loss, injuries and deaths.

(3) Any proclamation of a state of emergency must specify the geographical area covered by the proclamation. Such area shall be no larger than necessary to effectively respond to the emergency.

[Adopted 98-087 §8 eff 6/24/98]

235.300 Powers during state of emergency; suspension of agency rules

During a state of emergency, the Board shall:

(A) Have authority to suspend provisions of any order or rule of any county agency, if the Board determines and declares that strict compliance with the provisions of the order or rule would in any way prevent, hinder or delay mitigation of the effects of the emergency; and

(B) Have authority to direct any agencies in the county government to utilize and employ county personnel, equipment and facilities for the performance of any activities designed to prevent or alleviate actual or threatened damage due to the emergency, and may direct the agencies to provide supplemental services and equipment to local governments to restore any services in order to provide for the health and safety of the citizens of the affected area in order to effectuate the purposes of this Chapter.

235.320 Succession of authority

In the event that the Chair of the Board, or other person set forth in this section, is unavailable or unable to perform the duties granted and described under this Chapter, the duties shall be performed by and in the following order:

- (A) The Vice-Chair of the Board;
- (B) The third member of the Board;
- (C) The County Administrative Officer;
- (D) The emergency program manager.

[Adopted 98-087 §10 eff 6/24/98; amd 98-526 §6 eff 12/16/98]

235.340 Regulation, control; application

(A) Whenever a state of emergency has been declared to exist within an unincorporated area of Linn County, or at the request of a municipality's governing body, the Board is empowered to issue, amend and enforce rules, regulations, orders and emergency measures set forth in subsection (B) of this section. However, if circumstances prohibit the timely action of the Board, the Chair of the Board may issue, amend and enforce rules, regulations, orders and emergency measures, provided that approval from a majority of the Board is sought and obtained at the first available opportunity, or the Chair's order will become null and void.

(B) Such rules, regulations, orders and emergency measures may include, but not be limited to:

(1) Evacuating persons from the area designated as an emergency area. The Sheriff's and the Sheriff's deputies, Oregon State Police Officers, and Police Officers of the Cities of Albany, Lebanon and Sweet Home, the city and rural district fire fighters in Linn County, as well as emergency service respondents from other jurisdictions, under mutual aid or by agreement with Linn County, in response to a state of emergency in Linn County, shall be authorized to carry out that mandatory evacuation order.

(2) Establishing a curfew for the area designated as an emergency area which fixes the hours during which all persons other than officially authorized personnel may not be upon the

public street, public place, or any outdoor place within the area designated as an emergency area.

(3) Prohibiting or limiting the number of persons who may gather or congregate upon any public street, public place, or any outdoor place within the area designated as an emergency area.

(4) Closing, in the emergency area, all county roads, streets, and highways, as well as access points onto streets and roads, to traffic.

(5) Limiting, prohibiting, restricting or regulating vehicular or pedestrian traffic on such roads in any reasonable manner in the area designated as an emergency area for such distance or degree of regulation as may be deemed necessary under the circumstances. to such extent as the Board deems necessary and expedient.

(6) Entering into contracts and incurring obligations necessary to mitigate, prepare for, respond to or recover from emergencies or major disaster.

(7) Making appropriations, in the manner provided by law for making appropriations for the expenses of the county, for the payment of expenses of its emergency management agency and levying taxes upon the taxable property within the county. An appropriation made under this paragraph shall be budgeted so that it is possible to identify it as a distinguishable expense category.

(8) Acquiring, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster victims, and entering into arrangements necessary to prepare or equip such sites to utilize the housing units.

(9) In collaboration with public and private agencies, entering into cooperative assistance agreements for reciprocal emergency aid and resources.

(10) Closing taverns or bars and prohibit the sale of alcoholic beverages.

(11) Committing to mutual aid agreements.

(12) Suspending standard procurement procedures to obtain necessary services and /or equipment.

(13) Redirecting funds for emergency use.

(14) Ordering such other measures as are found to be immediately necessary for the protection of life and/or property.

(15) Controlling, restricting and regulating by rationing, freezing, use of quotas, prohibitions on shipments, price fixing, allocation or other means, the use, sale or distribution of food, feed, fuel, clothing and other commodities, materials, goods and services.

(16) Taking any other action that may be necessary for the management of resources following an emergency.

(17) Assuming complete control of all emergency operations in the area specified in a proclamation of a state of emergency issued under this Chapter.

(18) Directing all rescue and salvage work and do all things deemed advisable and necessary to alleviate the immediate conditions.

(19) Designating persons to coordinate the work of public and private relief agencies operating in such area and exclude from such area any person or agency refusing to cooperate with and work under such coordinator(s) or to cooperate with other agencies engaged in emergency work.

(20) Requiring the aid and assistance of any other public or quasi-public agencies in the performance of duties and work attendant upon the emergency conditions in such area.

[Adopted 98-087 §11 eff 6/24/98]

235.360 Authority over removal of disaster debris or wreckage; unconditional authorization of community; liability for injury or damage

(A) Linn County, a corporation, organization, or individual may grant authority to the Governor to clear or remove from publicly or privately owned land or water, debris and wreck-

age which may threaten public health or safety, or public or private property when:

(1) The Governor has declared a disaster emergency to exist under the laws of this state, or the President of the United States, at the request of the Governor, has declared a major disaster or emergency to exist in this state; and

(2) Linn County, a corporation, organization, or individual has presented an unconditional authorization for removal of such debris or wreckage from public and private property and, in the case of removal of debris or wreckage from private property, has agreed to indemnify the state government against any claim arising from such removal.

(B) Whenever the Governor provides for clearance of debris or wreckage pursuant to subsection (A) of this section, individuals appointed by the Governor are authorized to enter upon private lands or waters and perform any tasks necessary to the removal or clearance operation.

(C) Except in cases of willful misconduct, gross negligence or bad faith, any individual appointed by the Governor authorized to perform duties necessary to the removal of debris or wreckage shall not be liable for death of or injury to persons or damage to property.

(D) Linn County may acquire temporarily or permanently, by purchase, lease or otherwise, sites required for staging or temporarily storing disaster debris for sorting prior to moving the debris to a permanent site.

[Adopted 98-087 §12 eff 6/24/98]

235.380 Acquisition of resources

(A) Under this section, the Board is authorized to extend government authority to non-governmental resources (e.g., personnel, equipment, etc.) which may support regular government forces during an emergency, and may enter into agreements with other public and private agencies for use of resources. When real or personal property is taken under power granted by this section, the owner of the property shall be entitled to reasonable compensation.

(B) Under provisions of ORS Chapter 401, state resources are available when:

(1) the appropriate response to an emergency occurring in Linn County is beyond the capability of the county,

(2) Linn County fails to act; or

(3) the emergency involves two or more counties and the Governor determines that lack of coordination is hampering the effectiveness of response to the emergency.

[Adopted 98-087 §13 eff 6/24/98]

235.600 Emergency Operations Plan

(A) The Board, together with the emergency program manager, shall prepare for Board adoption an emergency management and operations plan. Such plan shall comply with state statutes and rules and this Chapter.

(B) The Linn County Emergency Operations Plan, adopted January 31, 1996, and revised October 1, 1997, Resolution 97-486, revised by Resolution 97-524), shall be effective, to the extent that it is not inconsistent with this Chapter and state statutes and rules, until such time as a new emergency operations plan may be adopted or revised to comply with current state requirements and this Chapter. Such new plan shall supercede and replace the current plan.

[Adopted 98-087 §14 eff 6/24/98]

235.650 Responsibility for emergency management

(A) For the purposes of this Chapter, and in accordance with ORS Chapter 401, the Emergency Management Director for Linn County shall be appointed by order of the Board.

(B) The Board, by an order entered into the Commissioners' Journal, has appointed the person holding the office of Sheriff of Linn County as the Emergency Management Director who shall supervise and control the Linn County Emergency Management Agency and shall be responsible to develop and maintain the emergency program management plan.

[Adopted 98-087 §15 eff 6/24/98]

235.700 Post-evacuation due process

(A) A person who has been ordered pursuant to this Chapter to evacuate and by that evacuation is aggrieved may within a period not to exceed 30 days following a declaration by the Board that the emergency no longer exists file with the Board a petition seeking redress.

(B) The petition shall specifically and clearly address each of the issues set forth in this subsection.

(1) That the petitioner evacuated petitioner's property in response to an evacuation order;

(2) The date and time of the evacuation by petitioner from petitioner's property;

(3) That the petitioner or petitioner's property because of the evacuation suffered injury;

(4) The basis for believing that the injury was caused by the action or inaction of Linn County;

(5) The extent of the injury, and

(6) What measures the petitioner took to mitigate the injury in any way.

(C) The Board shall not later than 30 days following receipt of the petition conduct a hearing to determine the validity of the petitioner's claim.

(D) The petitioner shall be allowed to appear and provide evidence and testimony of the issue of injury to petitioner or to petitioner's property.

(E) The issues to be decided by the Board at the hearing include:

(1) whether the petitioner was ordered to evacuate petitioner's property;

(2) whether the petitioner evacuated the petitioner's property;

(3) whether there was an injury to petitioner or petitioner's property;

(4) whether the action or lack thereof was the responsibility of Linn County;

(5) whether Linn County had good cause to perform the action or to fail to perform the action;

(6) whether the action or lack thereof caused the injury alleged;

(7) the extent of the injury, and whether the petitioner mitigated or aggravated the injury in any way;

(8) whether the County is liable for the injury; and

(9) the method to be employed to address the injury.

(F) Upon a finding of clear and convincing evidence, the Board shall:

(1) dismiss the evidence if the evidence and testimony do not support the petition, or

(2) affirm the petition.

(G) If the petition is affirmed, the Board shall determine the extent of damages and shall grant such relief as the Board determines in its order.

[Adopted 98-087 §16 eff 6/24/98]

235.800 Non-liability for emergency services; exception

(A) During the existence of an emergency, Linn County, any agent thereof, or emergency service worker engaged in any emergency services activity, while complying with or attempting to comply with ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, this Chapter, or any ordinance, order, resolution, regulation, or rule promulgated under those sections, shall not, except in cases of willful misconduct, gross negligence or bad faith, be liable for the death or injury of any person, or damage or loss of property, as a result of that activity.

(B) There shall be no liability on the part of a person who owns or maintains any building or premises which has been designated by any emergency management agency or emergency service agency or any public body or officer of this state or the United States as a fallout shelter or a shelter from destructive operations or attacks by enemies of the United States for the death of or injury to any individual or damage to or loss of property while in or upon the building or premises as a result of the condition of the building or premises or as a result of any act or omission, except willful misconduct, gross negligence or bad faith of such person or the servants,

agents or employees of the person when the dead or injured individual entered or went on or into the building or premises for the purpose of seeking refuge therein during or in anticipation of destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority.

(C) The provisions of ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, or this Chapter, shall not affect the right of any person to receive benefits or compensation to which the person would otherwise be entitled under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, under ORS chapter 656, under any pension or retirement law or under any act of Congress.

(D) Emergency service workers, in carrying out, complying with or attempting to comply with any order or rule issued under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, or this Chapter, or performing any of their authorized functions or duties or training for the performance of their authorized functions or duties, shall have the same degree of responsibility for their actions and enjoy the same immunities as officers and employees of the state and its local governments performing similar work.

(E) Nothing in this section shall excuse Linn County or any county governmental agency from liability for intentional confiscation or intentional destruction of private property.

[Adopted 98-087 §17 eff 6/24/98]

235.900 Penalties

(A) A violation of any rule, order, regulation, or emergency measure established by the Board pursuant to LCC 235.340 is a Class A infraction.

(B) Any person, firm, corporation, association or entity who violates any order, rule, regulation, or emergency measure taken by the Board under authority of this Chapter shall be subject to LCC Chapter 240 (Code Enforcement Code) and, upon conviction, to a fine of not more than \$500 for a non-continuing offense and a fine of not more than \$1,000 for a continuing offense.

(C) Each day of violation shall be deemed a separate offense for purposes of imposition of penalty.

(D) Where the Oregon Revised Statutes provide for a penalty for the act, commission or omission, the penalty prescribed herein shall be no greater than prescribed by said Oregon Revised Statutes.

[Adopted 98-087 §18 eff 6/24/98]

Statutory References and Other Authorities:
ORS 203; 401

Legislative History of Chapter 235:

Adopted 98-087 eff 6/24/98

Amendments to 98-087

#1 98-526 eff 12/16/98

[This page is intentionally blank]